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**STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH**

IN RE: **Four Twenty 420 Club Water System**
 Water System No. 1503392

TO: Michael Kochanski, Treasurer
 Four Twenty 420 Club
 P.O. Box 5112
 Bakersfield, CA 93388

BY REGISTERED MAIL

**CITATION FOR NONCOMPLIANCE -- Water System No. 1503392
TOTAL COLIFORM MCL VIOLATION -- August 2011 and September 2011
Citation No. 03-19-13C-015**

Issued on April 18, 2013

STATEMENT OF FACTS

Four Twenty 420 Club Water System (hereinafter Water System) is classified as a transient non-community water system and serves a transient population of approximately 200 persons through one service connection. The Water System has one active source of supply, Well 01 (PS Code: 1503392-001) and one 500-gallon pressure tank. No treatment is provided to the well water. The Water System operates under the authority of a domestic water supply permit No. 03-19-01P-002 issued on June 27, 2011, by the California Department of Health Services (now California Department of Public Health).

The Southern California Drinking Water Field Operations Branch, Division of Drinking Water and Environmental Management, California Department of Public

1 Health (hereinafter "Department") is responsible for enforcing the Safe Drinking
2 Water Act and regulations promulgated pursuant thereto.

- 3
- 4 • The Water System is required to collect one (1) routine bacteriological sample
5 per quarter. Please refer to the Water System's approved Bacteriological
6 Sample Siting Plan (BSSP) or Table 64423-A.
- 7 • One (1) routine bacteriological quality sample collected on August 2, 2011
8 (third quarter of 2012), from the distribution system tested positive for total
9 coliform bacteria.
- 10 • Only one (1) repeat bacteriological quality sample was collected on August 26,
11 2011, from the distribution system, and it tested positive for total coliform
12 bacteria.
- 13 • One (1) repeat source sample (also counted towards the Ground Water Rule
14 trigger sample) collected on August 26, 2011, from Well 01, also tested
15 positive for total coliform bacteria.
- 16 • As discussed above, the Water System collected only two repeat samples in
17 August 2011, and failed to collect the required four (4) repeat samples
18 [Section 64424(a)(2), *Authorities*].
- 19 • Repeat samples were not collected within 24 hours of being notified of the
20 total coliform positive sample result [Section 64424(a), *Authorities*].
- 21 • None of the bacteriological quality samples collected in August 2011 from the
22 distribution system or the system well, tested positive for *E.coli* bacteria.
- 23 • Four Twenty 420 Club Water System failed the total coliform maximum
24 contaminant level (MCL) for August 2011 [Section 64426.1(b)(2),
25 *Authorities*].
- 26
- 27

- 1 • On September 30, 2011, Michael Kochanski from the Water System notified
2 the Department that the Water System failed the total coliform MCL for
3 August 2011.
- 4 • On October 3, 2011, a public notice and Proof of Notification were emailed to
5 the Water System, for the August 2011 total coliform MCL failure.
- 6 • On October 17, 2011, the Department received signed and dated copies of the
7 public notice and Proof of Notification from the Water System. According to
8 these documents, public notification was completed on October 7, 2011.
- 9 • On October 3, 2011, an investigation report was emailed to the Water System
10 for the August 2011 total coliform MCL failure.
- 11 • **To date, the Department has not received a completed investigation report**
12 **in response to the August 2011 total coliform MCL failure [Section**
13 **64426(b)(2), *Authorities*].**
- 14 • One (1) bacteriological quality sample collected on September 2, 2011, from
15 Well 01 tested negative for total coliform bacteria.
- 16 • Five (5) routine samples were collected on September 30, 2011, from the
17 distribution system and they all tested positive for total coliform bacteria.
- 18 • None of the bacteriological quality samples collected in September 2011, from
19 the distribution system or the system well, tested positive for *E.coli* bacteria.
- 20 • **Four Twenty 420 Club Water System failed the total coliform MCL for**
21 **September 2011 [Section 64426.1(b)(2), *Authorities*].**
- 22 • One (1) source sample (also counted towards the Ground Water Rule's trigger
23 source sampling requirement) collected on October 4, 2011, from Well 01 and
24 one (1) special sample collected on the same day from the pressure tank tested
25 positive for total coliform bacteria.

- 1 • On September 30, 2011, Michael Kochanski notified the Department that the
- 2 Water System failed the total coliform MCL for September 2011.
- 3 • On October 3, 2011, a public notice and Proof of Notification were emailed to
- 4 the Water System for the September 2011 total coliform MCL failure.
- 5 • On October 17, 2011, the Department received a signed and dated copy of the
- 6 public notice and Proof of Notification from the Water System. According to
- 7 these documents, public notification was completed on October 7, 2011.
- 8 • On October 3, 2011, an investigation report was emailed to the Water System
- 9 for the September total coliform MCL failure.
- 10 • To date, the Department has not received a completed investigation report
- 11 in response to the September 2011 total coliform MCL failure. [Section
- 12 64426(b)(2), *Authorities*].
- 13 • Five (5) routine samples were not collected in October 2011 following the
- 14 September 2011 total coliform MCL violation. The Water System
- 15 collected only one (1) routine bacteriological sample on October 31, 2011,
- 16 from the distribution system and it tested negative [Section 64424(d),
- 17 *Authorities*].
- 18 • The Water System did not collect the required number of repeat samples
- 19 in October 2011 [Section 64424(a)(2), *Authorities*].
- 20 • To help clear bacteriological contamination, the Water System disinfected and
- 21 flushed Well 01 and distribution system and collected five (5) routine samples
- 22 on November 17, 2011, from the distribution system and all five (5) samples
- 23 tested negative for total coliform bacteria.
- 24 • Two (2) bacteriological quality samples collected on November 8, 2011, and
- 25 November 17, 2011, from Well 01 also tested negative for total coliform
- 26 bacteria.
- 27

- All routine bacteriological quality samples collected from the distribution system from December 2011 – January 2013 have tested negative for total coliform bacteria.
- Results of all bacteriological samples collected from January 2011 to January 2013 are summarized in **Attachment A**.

AUTHORITIES

Section 116577 of the CHSC, states in relevant part:

“(a) Each public water system shall reimburse the department for the actual costs incurred by the department for any of the following enforcement activities related to that water system:

- (1) Preparing, issuing, and monitoring compliance with, an order or citation.
- (2) Preparing, and issuing public notification

...

(b) The department shall submit an invoice for these enforcement costs to the public water system that requires payment prior to September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the department. The costs set forth in the invoice shall not exceed the total actual costs to the department of the enforcement activities specified in this section.”...

Section 116650 of the California Health and Safety Code (hereinafter CHSC), states in relevant part:

“(a) If the department determines that a public water system is in violation of this chapter or any regulation, permit, standard, or order issued or adopted thereunder, the department may issue a citation to the public water system. The citation shall be served upon the public water system personally or by registered mail.

(b) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, standard, order, or regulation alleged to have been violated.

(c) For continuing violations, the citation shall fix the earliest feasible time for elimination or correction of the condition constituting the violation where appropriate. If the public water system fails to correct a violation within the time specified in the citation, the department may assess a civil penalty as specified in subdivision (e).

(d) For a noncontinuing violation of primary drinking standards, the department may assess in the citation a civil penalty as specified in subdivision (e).

(e) Citations issued pursuant to this section shall be classified according to the nature of the violation or the failure to comply. The department shall specify the classification in the citation and may assess civil penalties for each classification as follows:

(1) For violation of a primary drinking standard, an amount not to exceed one thousand dollars (\$1,000) per day for each day that the violation occurred, including each day that the violation continues beyond the date specified for correction in the citation or order.

(2) For failure to comply with any citation or order issued for violation of a secondary drinking water standard that the director determines may have a direct or immediate relationship to the welfare of the users, an amount not to exceed one thousand dollars (\$1,000) for each day that the violation continues beyond the date specified for correction in the citation or order.

(3) For failure to comply with any citation or order issued for noncompliance with any department regulation or order, other than a primary or secondary drinking water standard, an amount not to exceed

two hundred dollars (\$200) per day for each day the violation continues beyond the date specified for correction in the citation."

Section 116655 of the CHSC, states in relevant part:

"(a) Whenever the department determines that any person has violated or is violating this chapter, or any permit, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order doing any of the following:

- (1) Directing compliance forthwith.
- (2) Directing compliance in accordance with a time schedule set by the department.
- (3) Directing that appropriate preventative action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

- (2) That purification or treatment works be installed."

California Code of Regulations (hereinafter, CCR), Title 22, Section 64423, Table 64423-A establishes the minimum routine sampling requirements, and states in relevant part:

<i>Monthly Population Served</i>	<i>Service Connections</i>	<i>Minimum Number of Samples</i>
25 to 1000	15 to 400	1 per month
1,001 to 2,500	401 to 890	2 per month
2,501 to 3,300	891 to 1,180	3 per month
3,301 to 4,100	1,181 to 1,460	4 per month
4,101 to 4,900	1,461 to 1,750	5 per month
4,901 to 5,800	1,751 to 2,100	6 per month
5,801 to 6,700	2,101 to 2,400	7 per month
6,701 to 7,600	2,401 to 2,700	2 per week
7,601 to 12,900	2,701 to 4,600	3 per week
12,901 to 17,200	4,601 to 6,100	4 per week
17,201 to 21,500	6,101 to 7,700	5 per week
21,501 to 25,000	7,701 to 8,900	6 per week
25,001 to 33,000	8,901 to 11,800	8 per week
33,001 to 41,000	11,801 to 14,600	10 per week
41,001 to 50,000	14,601 to 17,900	12 per week
50,001 to 59,000	17,901 to 21,100	15 per week

CCR, Title 22, Section 64424 establishes the repeat sampling requirements, and states in relevant part:

"(a) If a routine sample is total coliform-positive, the water supplier shall collect a repeat sample set as described in paragraph (a)(1) within 24 hours of being notified of the positive result. The repeat samples shall all be collected within the same 24 hour time period. A single service connection system may request that the Department allow the collection of the repeat sample set over a four-day period.

(1) For a water supplier that normally collects more than one routine sample a month, a repeat sample set shall be at least three samples for each total coliform-positive sample. For a water supplier that normally collects one or fewer samples per month, a repeat sample set shall be at least four samples for each total coliform-positive sample.

(2) If the water supplier is unable to collect the samples within the 24-hour time period specified in subsection (a) or deliver the samples to the laboratory within the 24 hours after collection because of circumstances beyond its control, the water supplier shall notify the Department within 24 hours. The Department will then determine how much time the supplier will have to collect the repeat samples.

(b) When collecting the repeat sample set, the water supplier shall collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken. Other repeat

samples shall be collected within five service connections upstream or downstream unless there is no upstream and/or downstream service connection.

(c) If one or more samples in the repeat sample set is total-coliform positive, the water supplier shall collect and have analyzed an additional set of repeat samples as specified in subsections (a) and (b). The supplier shall repeat this process until either no coliforms are detected in one complete repeat sample set or the supplier determines that the MCL for total coliforms specified in 64426.1 has been exceeded and notifies the Department.

(d) If a public water system for which fewer than five routine samples/month are collected has one or more total coliform-positive samples, the water supplier shall collect at least five routine samples the following month. If the supplier stops supplying water during the month after the total-coliform positive(s), at least five samples shall be collected during the first month the system resumes operation. A water supplier may request the Department waive the requirement to collect at least five routine samples the following month, but a waiver will not be granted solely on the basis that all repeat samples are total coliform-negative. To request a waiver, one of the following conditions shall be met:

(1) The Department conducts site visit before the end of the next month the system provides water to the public to determine whether additional monitoring and/or corrective action is necessary to protect public health.

(2) The Department determines why the sample was total coliform-positive and establishes that the system has corrected the problem or will correct the problem before the end of the next month the system serves water to the public. If a waiver is granted, a system shall collect at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with 64426.1."

CCR, Title 22, Section 64426 establishes the significant rise in bacteriological count and states in relevant part:

"(a) Any of the following criteria shall indicate a possible significant rise in bacterial count:

(1) A system collecting at least 40 samples per month has a total coliform-positive routine sample followed by two total coliform-positive samples in the repeat sample set;

(2) A system has a sample which is positive for fecal coliform or E. coli; or

(3) A system fails the total coliform Maximum Contaminant Level (MCL) as defined in 64426.1.

(b) When the coliform levels specified in subsection (a) are reached or exceeded, the water supplier shall:

(2) Submit to the Department information on the current status of physical works and operating procedures which may have caused the elevated bacteriological findings, or any information on community illness suspected of being waterborne. This shall include, but not be limited to:

(A) Current operating procedures that are or could potentially be related to the increase in bacterial count;

(B) Any interruptions in the treatment process;

(C) System pressure loss to less than 5 psi;

(D) Vandalism and/or unauthorized access to facilities;

(E) Physical evidence indicating bacteriological contamination of facilities;

(F) Analytical results of any additional samples collected, including source samples;

(G) Community illness suspected of being waterborne; and

(H) Records of the investigation and any action taken."...

CCR, Title 22, Section 64426.1 establishes the total coliform maximum contaminant level and states in relevant part:

"(a) Results of all samples collected in a calendar month pursuant to Sections 64423, 64424, and 64425 that are not invalidated by the Department or the laboratory shall be included in determining compliance with the total coliform MCL. Special purpose samples such as those listed in 64421(b) and samples collected by the water supplier during special investigations shall not be used to determine compliance with the total coliform MCL.

(b) A public water system is in violation of the total coliform MCL when any of the following occurs:

- (1) For a public water system which collects at least 40 samples per month, more than 5.0 percent of the samples collected during any month are total coliform-positive; or
- (2) For a public water system with collects fewer than 40 samples per month, more than one sample collected during any month is total coliform-positive; or
- (3) Any repeat sample is fecal coliform-positive or E. coli-positive; or
- (4) Any repeat sample following a fecal coliform-positive or E. coli-positive routine sample is total coliform-positive.

(c) If a public water system is not in compliance with paragraphs (b)(1) through (4), during any month in which it supplies water to the public, the water supplier shall notify the Department by the end of the business day on which this is determined, unless the determination occurs after the Department office is closed, in which case the supplier shall notify the Department within 24 hours of the determination. The water supplier shall also notify the consumers served by the water system. A Tier 2 Public Notice shall be given for violations of paragraphs (b)(1) or (2), pursuant to section 64463.4. A Tier 1 Public Notice shall be given for violations of paragraphs (b)(3) or (4), pursuant to section 64463.1."

DETERMINATIONS

Based upon the above Statement of Facts and Authorities, the Department determines that the Water System has violated the following:

1. CCR, Title 22, Section 64426.1(b)(2): Specifically, the Water System violated the total coliform MCL for August 2011 and September 2011 when more than one sample collected in August 2011 and September 2011, tested positive for total coliform bacteria.
2. CCR, Title 22, Section 64426(b)(2): Specifically, the Water System failed to submit an investigation report to the Department for the August 2011 and September 2011 total coliform MCL failures.
3. CCR, Title 22, Section 64424(a): Specifically, during the month of August 2011, the Water System failed to collect the repeat samples within 24 hours of notification by the contract laboratory.
4. CCR, Title 22, Section 64424(a)(2): Specifically, during the month of August 2011, the Water System failed to collect the required number of repeat samples, following a routine total coliform positive sample (collected on August 2, 2011).

5. CCR, Title 22, Section 64424(d): Specifically, during the month of October 2011, the Water System failed to collect the required five (5) routine bacteriological quality samples from the distribution system.

The above violations are classified as non-continuing violations.

DIRECTIVES

Four Twenty 420 Club Water System is hereby directed to take the following actions:

1. Cease and desist from failing to comply with Section 116555(a) of the California Health and Safety Code (CHSC) and Sections 64424(a), 64424(a)(2), 64424(d), 64426(b)(2), 64426.1(b)(2) of Title 22, California Code of Regulations (CCR).
2. In the future, the Water System shall collect the required number of four (4) repeat samples within 24 hours of receipt of notification from its contract laboratory.
3. In the future, whenever a routine positive sample is collected from the Water System, the following month, five (5) routine distribution samples shall be collected.
4. In the future, the Water System shall comply with the Ground Water Rule requirements by collecting a source sample in follow-up to a routine total coliform positive sample.

- 1 5. In the future, the Water System shall notify the Department within 24 hours of
2 total coliform MCL failure, when two or more bacteriological quality samples
3 (routine or repeat) in a month test positive for total coliform bacteria.
4
- 5 6. **By April 30, 2013, the Water System shall submit a written response**
6 **outlining the steps taken to return to compliance with the violations listed**
7 **under "Determinations" and discontinue the activities that led to these**
8 **violations.**
9
- 10 7. Notify the Department within five business days of the date of service of this
11 Citation if the deadlines established by this Citation will not be met and
12 explain, in writing, the reason(s) for delay(s).
13
- 14 8. The Water System shall reimburse the Department, in accordance with an
15 invoice that shall be provided to the Water System, the costs for enforcement
16 activities, and such reimbursement shall be made prior to September 1 (or by a
17 different date if specified by the Department) of the fiscal year following the
18 fiscal year in which such costs are incurred as described in CHSC Section
19 116577(a)(1-2) and 116577(b).
20
- 21 9. Any document requested by the citation shall be submitted to the following
22 address:
23 Jaswinder S. Dhaliwal, P.E., Senior Sanitary Engineer
24 Department of Public Health
25 Southern California Branch
26 Drinking Water Field Operations
27 4925 Commerce Drive, Suite 120
Bakersfield, CA 93309

FURTHER ENFORCEMENT ACTIONS

Section 116270, Division 104, Part 12, Chapter 4 of the CHSC authorizes the Department to: issue additional citations with assessment of penalties if the public water system continues to fail to correct a violation identified in a citation; take action to suspend or revoke a permit that has been issued to a public water system if the system has violated applicable law or regulations or has failed to comply with orders of the Department; and petition the superior court to take various enforcement measures against a public water system that has failed to comply with orders of the Department. The Department does not waive any further enforcement action by issuance of this citation.

PARTIES BOUND

This citation shall apply to and be binding upon Four Twenty 420 Club, its officers, directors, agents, employees, contractors, successors, and assignees.

SEVERABILITY

The directives of this citation are severable, and Four Twenty 420 Club shall comply with each and every provision thereof, notwithstanding the effectiveness of any other provision.


CIVIL PENALTY

Section 116650, subsection (d) and (e) of the CHSC allow for the assessment of a civil penalty for the failure to comply with the requirements of the Safe Drinking Water Act. Failure to comply with any Directive of this Citation may result in the Department imposing an administrative penalty of not less than \$200 (two hundred

1 dollars)for each day that the violation continues beyond the date set for correction in
2 this Citation.

3
4 The Department does not waive any further enforcement action by issuance of this
5 citation, and expressly reserves the right to issue a citation with penalties for the
6 violations on which the Directives of this citation are based.

7
8
9 April 18, 2013
10 Date


Jaswinder S. Dhaliwal, P.E.
Senior Sanitary Engineer
Tehachapi District
SOUTHERN CALIFORNIA BRANCH
DRINKING WATER FIELD OPERATIONS

11
12
13 **Attachments**

14 Attachment A: Bacteriological Summary January 2011 through January 2013

15
16
17 cc: Kern County Environmental Health Services Department (w/o attachment)

18
19 JSD/kre/ak

Attachment A

Four Twenty 420 Club

1503392

Distribution System Freq: 1/Q

<i>Sample Date</i>	<i>Time</i>	<i>Location</i>	<i>T Coli</i>	<i>E Coli</i>	<i>F Coli</i>	<i>Type</i>	<i>CI2</i>	<i>Violation</i>	<i>Comment</i>
1/18/2011	10:00	420 Club, Kitchen	A	A		Routine			
4/5/2011	11:50	420 Club Kitchen	A	A		Routine			
8/2/2011	9:00	420 Club HB	P	A		Routine			
8/26/2011	8:20	420 Club Kitchen	1.0	<1.0		Repeat	0	1CL, MR	Cit. #03-19-13C-015 issued.
9/2/2011	8:53	Kitchen Sink	A	A		Routine			
9/30/2011	12:30	Front Outside Fau	P	A		Routine		MCL	Cit. #03-19-13C-015 issued.
9/30/2011	12:35	Kitchen Sink	P	A		Routine			
9/30/2011	12:50	Men's RR sink	P	A		Routine			
9/30/2011	12:53	Women's RR sink	P	A		Routine			
9/30/2011	13:00	Bar Sink	P	A		Routine			
10/4/2011	8:55	Storage Tank	P	A		Routine			
10/31/2011		Incorrect # of Rout						MR3	Cit. #03-19-13C-015 issued.
10/31/2011	9:52	420 Club Adj. Kitc	A	A		Routine			
11/8/2011	10:53	Kitchen Sink	A	A		Routine			
11/17/2011	8:57	Bar HB	A	A		Routine			
11/17/2011	9:00	Front HB	A	A		Routine			
11/17/2011	9:05	Kitchen	A	A		Routine			
11/17/2011	9:08	Shooting Range (A	A		Routine			
11/17/2011	9:21	Men's RR Clubhou	A	A		Routine			
3/27/2012	10:10	Kichen (SF)	A	A		Routine			
4/16/2012	13:50	Kitchen (SF)	A	A		Routine			
7/31/2012	12:46	Kitchen (SF)	A	A		Routine			
10/2/2012	15:05	Kitchen Sink	A	A		Routine			
1/18/2013	9:00	Kitchen (SF)	A	A		Other			

Four Twenty 420 Club

1503392

Source Monitoring Freq:

<i>Sample Date</i>	<i>Time</i>	<i>Source</i>	<i>T Coli</i>	<i>E Coli</i>	<i>F Coli</i>	<i>Violation</i>	<i>Comment</i>
8/26/2011	8:29	Well Discharge	1.0	<1.0			
9/2/2011	8:45	Raw Water	A	A			
10/4/2011	8:55	Well Discharge	>200	<1			
10/31/2011	9:45	Well Discharge	27	<1			
11/8/2011	10:58	Raw Water	A	A			
11/17/2011	9:10	Well	A	A			
